



COUNTY OF LAKE

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

Courthouse - 255 N. Forbes Street

Lakeport, California 95453

Telephone 707/263-2221 FAX 707/263-2225

Item 5

9:25 AM

December 10, 2020

STAFF REPORT

TO: Planning Commission

FROM: Scott DeLeon, Community Development Director
Tocarra Nicole Thomas, Deputy Director
Mark Roberts, Principal Planner

Prepared by: Eric Porter, Associate Planner

DATE: October 1, 2020

RE: **Morgan Valley Ventures LLC**

- **Major Use Permit (UP 19-10)**
- **Initial Study (IS 19-21)**

Supervisor District 1

ATTACHMENTS:

1. Vicinity Map
2. Proposed and Existing Site Plans
3. Property Management Plan
4. Agency Comments
5. Proposed Conditions of Approval
6. Initial Study IS 19-21 including Support Documents

I. PROJECT DESCRIPTION

Applicant: Morgan Valley Ventures, LLC

Owner: Bobby Skalla

Location: 22800 and 22520 Morgan Valley Road, Lower Lake

A.P.N.s: 012-010-82, 012-069-59 and 012-069-60

Parcel Size: 279+ acres

General Plan: Rural Lands and Agriculture

Zoning: Split zoned "RL-A-WW" - Rural Lands - Agriculture - Waterway

Flood Zone: Not located within a known flood zone

Cultivation Area: 447,736 square feet (new), and 91,000 square feet (existing)

Canopy Area: Projected at 400,000 square feet (new)

Cultivation Start Date: June 26, 2020 via early activation

Applicants Request:

The applicant is requesting approval of a major use permit to allow the expansions of a previously approved cultivation area of approximately 91,000 square feet. (*Use Permit, UP 18-22 – Approved on February 28, 2019*). The expansion of the existing use includes but is not limited to the following.

- Adding Six (6) A – Type 3 “Outdoor” cultivation areas to allow total cannabis cultivation area of 530,736 square feet. The projected new canopy area will be approximately 500,000 square feet. All cannabis will be grown in above-ground pots.
- One (1) A-Type 13 ‘Self Distribution’ license.
- One (1) - 5,000 square foot drying building.

Pesticides, Fertilizers, and Hazardous Materials:

All pesticides and fertilizers will be held within their manufacturer's original containers, which are within secondary containment structures. The flammable/petroleum products will be in state of California approved containers and within secondary containment that is separate from the pesticides and fertilizers. The storage sheds will be located within the fenced in cultivation area.

Onsite Waste:

Excess vegetated waste will be composted on site in a designated composting area in compliance with all applicable federal, state and local requirements. According to the PMP, the use will generate approximately 500 pounds of organics vegetative waste will be produced annually. The growing medium (soil) will be reused from the composted areas.

Hours of operation:

Monday through Saturday, 7:00 AM to 8:00 PM, for authorized staff, deliveries and pickups. The facility will be closed to public visitors.

Water Usage

Water will be provided to the cultivation operation from two groundwater wells, located at Latitude 38.900446° and Longitude - 22.482977° and Latitude 38.896181° and Longitude -122.490939°, and from a Pond/Rain Water Catchment Reservoir.

The Pond/Rain Water Catchment Reservoir intercepts overland flow/stormwater runoff from the surrounding hillsides (catchment basin of 950,000 sq. ft. or 21.8 acres) and can store approximately 2,280,957 gallons of water (approximately 7 acre-feet).

The well located at Latitude 38.900446° and Longitude -122.482977° was drilled in 2016 and has an estimated yield of 8 gallons per minute.

The well located at Latitude 38.896181° and Longitude -122.490939° was drilled in 2009 and has an estimated yield of 40 gallons per minute.

There are four (4) 5,000- gallon heavy-duty plastic water storage tanks on the project property to provide additional stored water for irrigation and fire suppression purposes/uses.

Total combined existing and proposed cannabis cultivation/canopy area is 30,736 sq. ft. (83,000 sq. ft. existing + 447,736 sq. ft. proposed) with an expected total annual water use requirement of 20 acre-feet or 6,614,800 gallons.

The cultivation season for outdoor cannabis cultivation operation begins in May and ends in November of each year. The following table presents the expected water use of the proposed cultivation operation by month during the cultivation season in gallons and acre-feet.

Water Availability Analysis

The Pond/Rain Water Catchment Reservoir can store approximately 2,280,957 gallons or 7 acre-feet of water, which exceed their proposed water usage according to the Property Management Plan.

The operation has two additional backup water sources in the form of their two existing onsite groundwater wells, with a combined estimated yield of 48 gallons per minute.

Project Phasing. The applicant shows three phases on his site plan, however phase I is completed, and phases 2 and 3 will occur following approval of Use Permit UP 19-10. Phase I has had Early Activation granted as of June 25, 2020, granting the applicant 229,936 sq. ft. of cultivation area. This is the area that Phase I occupies, and has already begun via Early Activation.

Phase II would add an additional 100,000 sq. ft. of outdoor cultivation area beginning May 1, 2021.

Phase III would add an additional 217,800 sq. ft. of outdoor cultivation area beginning on May 1, 2022.

Staff is recommending conditional approval of Major Use Permit, UP 19-10 and Initial Study/ Mitigated Negative Declaration IS 19-21.

II. PROJECT SETTING

Existing Uses and Improvements: The site was originally approved for 91,000 square feet of commercial cannabis cultivation through major use permit UP 18-22 on February 28, 2019; this equated to two A-Type 3 medium outdoor cultivation licenses. The total area of the parcels is about 279+ acres in size. The applicant has applied for an additional 447,736 sq. ft. of cultivation area, which equates to six additional A-Type 3 outdoor cultivation licenses. Based on the size of the properties involved, the applicant can apply for up to 13 A-Type 3 medium outdoor cultivation licenses.

The house on the property contains a well and septic system, and there are two existing agricultural wells and an above-ground pond. There is a 1000+ square foot dwelling on the site, and a 3,000 square foot barn. The applicant is proposing to build a 5,000 square foot drying building. The site had been extensively burned during the Valley Fire, and still contains some dead and dying trees that will be removed.

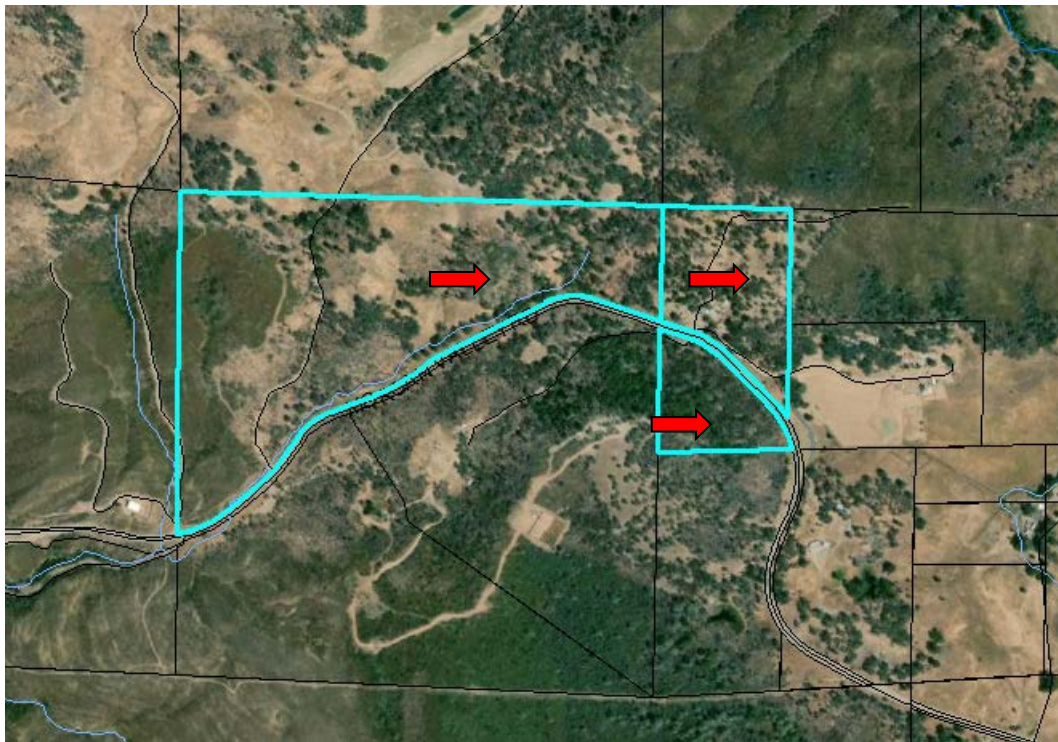
The proposed cultivation areas are all enclosed within 6' tall screened fences, and vary in size from 10,000 to over 40,000 square feet. Please see Attachment 2, Site Plans.

Surrounding Uses and Zoning

North and East: "RL" Rural Lands-zoned properties that are vacant and that range in size from 43 acres to over 100 acres.

South: "RL" Rural Land-zoned lots that are mostly vacant, ranging in size from 49 acres to over 50 acres; there is one single family dwelling located to the south-east of the property.

West: "APZ" Ag-Preserve lots that are vacant, ranging in size from 76 acres to over 100 acres.



AERIAL OF SITE AND NEIGHBORING LAND

Topography: The average cross slope is less than 1-20% slope.

Soils: 209 (Skyhigh – Millsholm loam, 15 to 50% slope; about 40% of lot 60). Grade 4 soil; may lack nutrients needed for crop growing. Poor development soil due to severe shrink-swell, slope and depth to rock.

177 (Millsholm – Bressa loam, 30 to 50% slope; about 15% of the lot). Poor quality as development soil due to depth to rock and slope.

232 (Still loam; about 15% of the site). Excellent crop productivity, but is close to Rocky Creek. Poor development potential – flooding.

169 (Maymen - Etzel Snook complex; 30 to 75% slope; about 30% of lot 60). Grade 6 soil, not generally conducive to crop growing. Poor development quality soil due to slope and depth to rock.

Water Supply: Existing wells and above-ground rainwater detention pond.

Sewage Disposal: Existing On-Site Septic.

Fire Protection: Lake County Fire Protection District.

Vegetation: Several varieties of oak trees, grass and some manzanita brush.

III. PROJECT ANALYSIS

General Plan Conformance

The General Plan designations for the subject sites are Rural Lands and Agriculture.

Rural Lands

Rural Lands allows for rural development in areas that are primarily in their natural state, although some agricultural production, especially vineyards, can occur on these lands. This category is appropriate for areas that are remote or characterized by steep topography, fire hazards, and limited access. Typical uses permitted by right include, but are not limited to, animal raising, crop production, single family residences, game preserves and fisheries. Other typical uses permitted conditionally include, but are not limited to, recreational facilities, manufacturing and processing operations, mining, and cannabis operations.

The Rural Lands zoning district allows commercial cannabis cultivation subject to review and approval of a use permit and consistency with the California Environmental Quality Act (CEQA) through mitigation measures and / or conditions of approval. A main purpose of this staff report is to identify the potential impacts, and the corresponding mitigation measures that would be necessary to assure that this project has a less-than-significant impact to the site and its surroundings, and that the project is consistent with its zoning district(s).

Agriculture

The purpose of the Agricultural Resources Element is to protect and enhance this vital component of the County's economy and quality of life. This element contains goals, policies, and implementation measures designed to address agricultural resources in the County.

The Agriculture zoning district allows commercial cannabis cultivation subject to review and approval of a use permit and consistency with the California Environmental Quality Act (CEQA) through mitigation measures and / or conditions of approval.

The following General Plan policies relate to site development in the context of this proposal:

Land Use (Chapter 3, 'Land Use', Section 3.5, 'Urban / Rural Boundary')

Goal LU-2: is to clearly differentiate between areas within Lake County appropriate for higher intensity urban services and land uses from areas where rural or resource use should be emphasized.

- Policy LU-2.4 Agricultural/Residential Buffer. The County shall require adequate setbacks between agricultural and non-agricultural uses. Setbacks shall vary depending on type of operation and chemicals used for spraying.

In reference to the Lake County Zoning Ordinance Article 27, Section 27.11 (at), the county requires a minimum 100 foot setback from all property lines of the subject property, and a minimum of 200 foot setback from any off-site residences. The nearest off-site residence is located approximately 2000 feet from the cultivation site. Additionally, Commercial Cannabis Cultivation is prohibited within a 1,000 feet of Community Growth Boundaries, licensed child care facilities, churches, or youth-oriented facilities. The nearest youth-oriented facility is located approximately eight (8) miles southeast from the cultivation site. The project complies with all required setbacks.

Goal AR-1: To preserve and maintain a viable and diverse agricultural industry within Lake County.

Cannabis is not regarded as an agricultural product at the state level. The County however regards cannabis as a type of crop. There is a more stringent review process with commercial cannabis cultivation than what would occur with other, more traditional crops. Cannabis cultivation adds to the agricultural diversity within Lake County.

Economic Development (Chapter 3.9, 'Economic Development')

Goal LU-6: "To maintain a healthy and diverse local economy that meets the present and future employment, shopping, recreational, and service needs of Lake County residents".

- Policy LU 6.1 – Diverse Economic Base: "The County shall actively promote the development of a diversified economic base by continuing to promote agriculture, recreation services and commerce and by expanding its efforts to encourage industrial and non-industrial corporate developments, and the developments of geothermal resources".

The proposed Commercial Cannabis Operation would create diversity within the local economy, create future employment opportunities for local residents and allow the expansion of industrial and non-industrial corporate developments.

Lower Lake Area Plan Conformance

The Lower Lake Area Plan does not contain policies that address cultivation of commercial cannabis, however portions of this Area Plan contain Land Use and Economic Development policies that apply as follows.

Lower Lake Area Plan, Part 2, Chapter 5.5, ‘Economic Development’

Policy 5.1b-1: A high priority should be given to providing service and employment opportunities locally in the Lower Lake area in order to boost economic development and reduce travel distances.

The project will employ up to five additional employees who would be local to Lake County, thus meeting the Economic Development policy 5.1b-1 within the Lower Lake Area Plan.

Zoning Ordinance Conformance

The project parcel is zoned “RL-A-WW” – Rural Lands – Agriculture - Waterway. Commercial cannabis cultivation in the RL zoning district is allowed per Lake County zoning ordinance Article 27, subsection (at) upon receipt of a major use permit for these types of licenses.

Article 5 – Agriculture (A). The purpose of this zoning designation is to protect the County’s agricultural soils, provide areas suitable for agriculture, and prevent development that would preclude their future use in agriculture. The following regulations shall apply in all “A” districts.

Commercial cannabis cultivation is permitted in the Agriculture zoning district per Article 27, Table B, provided all impacts are mitigated, and all provisions applicable to commercial cannabis found in the Articles 7 and 27, subsection (at) of the Lake County zoning ordinance are met. The project meets all applicable development standards and regulations for the A zoning district.

Article 7 – Rural Lands (RL). The purpose of this zoning designation is to provide for resource related and residential uses of the County’s undeveloped lands that are remote and often characterized by steep topography, fire hazards, and limited access.

Commercial cannabis cultivation is permitted in the Rural Lands zoning district, provided all impacts are mitigated, and all provisions applicable to commercial cannabis found in Article 27 subsection (at) of the Lake County zoning ordinance are met. The project meets all applicable development standards and regulations for the RL zoning district.

Article 37 – Waterway (WW). The purpose of this zoning designation is to preserve, protect and restore significant riparian systems, streams and their riparian, aquatic and

woodland habitats; protect water quality; control erosion, sedimentation and runoff; and protect the public health and safety by minimizing dangers due to floods and earth slides. These purposes are to be accomplished by setting forth regulations to limit development activities in significant riparian corridors and through the establishment of an administrative procedure for the granting of exceptions from such regulations.

Per the WW zoning district the applicant is required to maintain a minimum of 100' setbacks to the tops of banks from any waterways on the site. The site plans submitted show this separation. The applicant has shown several waterways on the site plans submitted and has met the 100' setbacks between 'top of bank' of a waterway and the edge of the cultivation area as is required within Article 27, subsection (at).

Article 27 - Use Permits

The purpose of Article 27 is for those uses possessing characteristics of unique and special form as to make their use acceptable in one or more districts upon issuance of a zoning permits, minor or major use permits in addition to any required building, grading and/or health permits.

Development Standards, General Requirements and Restrictions. This application meets the following Development Standards, General Requirements and Restrictions as specified within Article 27, subsection (at) of the Lake County Zoning Ordinance.

Development Standards

- Minimum Lot Size (20 acres per license): *Complies; the subject site is over 279 acres in size. The applicant has applied for six (6) A-Type 3 (medium outdoor) cultivation license and one Type 13 'Self Distribution License', which is under consideration herein. The applicant had been approved for two (2) A-Type 3 medium outdoor cultivation licenses in 2019.*
- Setback from Property Line (100 feet): *Complies, the cultivation site is about 280 feet from the nearest property line.*
- Setback from Off-Site Residence (200 feet minimum): *Complies, the nearest neighboring residential dwelling is located about 2000 feet away from the nearest cannabis cultivation area. The nearest dwelling / property also contains a permitted cannabis cultivation site.*
- Fence Height between Six (6) and Eight (8) Feet: *Complies, the proposed fence height proposed is six (6) feet.*
- Maximum Canopy Area (43,560 square feet per license): *The proposed canopy area is estimated to be 400,000 square feet in size.*
- Maximum Cultivation Area (65,000 square feet per license): *Complies. The applicant is proposing a 447,736 square foot of outdoor cultivation area.*

General Requirements. There are several general requirements for cannabis cultivation listed in Section 27.11(at) of the Lake County Zoning Ordinance. These

include, but are not limited to, obtaining a State License, completion of background checks, obtaining property owner approval, complying with hours of operation and deliveries, access requirements, etc.

The applicant meets all of the General Requirements outlined in Section (at) of Article 27 of the Lake County Zoning Ordinance. These include, but are not limited to, obtaining a State License, completion of background checks, obtaining property owner approval, complying with hours of operation and deliveries, access requirements, etc. If the requirements have not yet been met, a condition has been added to assure compliance.

The applicant has also submitted a Property Management Plan, outlining compliance with all regulations pertaining to cannabis operations including air quality, cultural resources, energy usage, fertilizer usage, fish and wildlife protection, storm water management, security, compliance monitoring, etc. In addition, the applicant complies with the restrictions pertaining to the prohibited activities listed in Subsection (at) of Article 27 of the Zoning Ordinance, including but not limited to the removal of trees, illegally diverting water, producing excessive odors, cultivating within a Cannabis Exclusion Area, etc.

IV. ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions. An Initial Study and Mitigated Negative Declaration (IS 19-21; Attachment 6) was prepared and circulated for public review in compliance with CEQA from June 15, 2020 to July 20, 2020. No comments were received during the public review period.

The Initial Study found that the project could cause potentially significant impacts to Air Quality, Biological Resources, Cultural Resources/Tribal Cultural Resources, Geology/Soils, and Noise. However, with the incorporation of the mitigation measures below, all impacts can be reduced to a less than significant level.

Air Quality

The project has potential to result in air quality impacts by generating fugitive dust emissions through ground-disturbing activities, uncovered soil or compost piles, and vehicle or truck trips on unpaved roads. Fugitive dust will be controlled by wetting soils with a mobile water tank and hose, or by delaying ground disturbing activities until site conditions are not windy, and by eliminating soil stockpiles. Construction of the site will be minimal; the greenhouses already exist but require ministerial building permits. Some minor site improvements will be necessary but the amount of earth that needs to be moved is not significant enough to trigger a grading permit. However, future expansion of the cultivation area may trigger the requirement for a grading permit in the future; this will be evaluated if and when further expansion(s) are sought. The staging area for any construction equipment will take place on the portion of the site to be used for employee parking. This area is already disturbed and will not further be degraded by this portion of the site being used as a staging area. Site preparation for the outdoor cultivation areas will be minimal (the 91,000 sq. ft. area is existing).

Smoke from the burning of brush removed during grading can have a substantial effect on air quality. Lake County Air Quality Management District (LCAQMD) recommends that removed vegetation be chipped and spread for ground cover and erosion control as an alternative to vegetation burning.

The applicant plans on using fabric pots rather than in-ground planting to enable the applicant to provide higher quality soil. This will also result in less dust-related particulates. There is no mapped serpentine soil on the site, although some serpentine soil exists in the vicinity.

The applicant would use organic methods and preventative pest management strategies in order to help reduce the amount of air pollution and/or particulates.

Odors released as a result of the proposed cannabis growing operation have the potential to result in significant impacts to nearby residents. MVV plans to cultivate mostly “Autoflowering” cannabis plants (cannabis plants that switch from vegetative growth to the flowering stage with age, as opposed to being photoperiod dependent), and to implement a cyclical planting and harvesting schedule. Cyclical planting and harvesting with autoflowering cannabis plants means that only a portion of the entire cultivation area will be composed of mature/flowering cannabis plants at any given time, significantly reducing the volume of odors generated by the cultivation area as a whole. No significant odor impacts are anticipated from the proposed cultivation operation, due to cyclical flowering and harvesting, the limited population in the area, and the generous setbacks from public roads, property lines, and neighboring residences/outdoor activity areas. The ventilation system of the 5,000 sq. ft. Processing building, in which the processing of raw cannabis plant material from the existing/proposed cultivation area(s) occurs, are equipped with carbon filters/air scrubbers to mitigate odors emanating from the building.

The nearest house is located approximately 2,500 feet to the southeast of the cultivation sites and is downwind from the prevailing wind direction. The applicant has provided a contact person in the event of odors, and has indicated that he would resolve the odor issues if they arise. Within incorporation of Mitigation Measures identified below, including the requirement for the applicant to submit an Odor Control Plan for review by the Community Development Department. Therefore, with the imported mitigation measures below, all potential impacts would be reduced to less than Significant.

- AQ-1: Prior to cultivation, the applicant shall submit an Odor Control Plan to the Community Development Department for review and approval, or review and revision.
- AQ-2: All Mobile diesel equipment used for construction and/or maintenance shall be compliance with State registration requirements. Portable and stationary diesel powered equipment must meet the requirements of the State Air Toxic Control Measures for CI engines as well as Lake County Noise Emission Standards.
- AQ-3: Construction and/or work practices that involve masonry, gravel, grading activities, vehicular and fugitive dust shall be managed by use of water or other acceptable dust palliatives to mitigate dust generation during and after site development.

- AQ-4: The applicant shall maintain records of all hazardous or toxic materials used, including a Material Safety Data Sheet (MSDS) for all volatile organic compounds utilized, including cleaning materials to the Lake County Air Quality Management District.
- AQ-5: All vegetation during site development shall be chipped and spread for ground cover and/or erosion control. The burning of vegetation, construction debris, including waste material is prohibited.
- AQ-6: The applicant shall have the primary access and parking areas surfaced with chip seal, asphalt or an equivalent all weather surfacing to reduce fugitive dust generation. The use of white rock as a road base or surface material for travel routes and/or parking areas is prohibited.
- AQ-7: All areas subject infrequent use of driveways, over flow parking, etc., shall be surfaced with gravel. Applicant shall regularly use and/or maintain graveled area to reduce fugitive dust generations.
- AQ-8: No more than a maximum speed limit of 15 mph will be permitted.

Biological Resources

A Biological Assessment was done by Eastside Environmental Services (October 2017). The assessment indicates that the dominant habitat on the parent parcel is Blue Oak woodland, consisting of open to dense woodlands with grassy to partially open shrubby understories. Major plant components of Blue Oak habitat include Blue Oak, Valley Oak, California Foothill/Gray Pine, and Black Oak in addition to a shrub story of Wild Lilac, Manzanita, and Poison Oak. There is some riparian habitat that closely parallels Rocky Creek along the eastern boundary of the property. Rocky Creek is a mapped waterway, but is not a mapped wetland. Regardless, a 100 foot setback from cultivation areas and a 30 foot setback for all structures is required from the high water mark of Rocky Creek, and no fertilizers or pesticides may be used within 100 feet of this creek.

The project proposes vegetation removal of five acres in Phase III. However, according to the Biological Assessment, no special status habitats were identified as occurring within five miles of the project site in the California Natural Diversity Database (CNDDDB) and U.S. Fish & Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) reports generated for this site's Biological Site Assessment. The location of the existing/proposed cultivation operation is not located in any wildlife corridors or native nursery sites. However, Best Management Practices identified in the Biological Assessment are being added as conditions of approval to ensure impacts do not occur during construction. The project would not have a substantial adverse effect, either directly or through habitat modifications, on any special status species. Therefore, with the imported mitigation measures below, all potential impacts would be reduced to Less than Significant.

- **BIO-1:** Worker training: The Project proponent should retain a professional biologist to conduct mandatory contractor/worker awareness training for construction personnel. The awareness training will be provided to all construction personnel to brief them on the identified location(s) of sensitive biological resources, including how to identify species with the potential to occur in the construction area and the need to avoid impacts to biological resources (e.g., plants, wildlife, and jurisdictional waters), and to brief them on the penalties for not complying with biological mitigation requirements. Brochures, books, and briefings may be used in the training session, provided that a qualified person is on hand to answer and questions. If new construction personnel are added to the project, the contractor will ensure that they receive the mandatory training before starting work.
- **BIO-2:** Pre-construction special-status species and migratory bird survey should be performed by a qualified biologist at the proposed Project site and appropriate buffer zone around the Project prior to commencement of ground disturbing activities.
- **BIO-3:** A biological monitor should be present during the initial construction access in all unpaved areas to identify and mark sensitive resources for avoidance. The biological monitor should also be present during all grading and vegetation clearing (e.g., mowing, trimming, and removal) within 50 feet of sensitive habitats or resources. The biological monitor should have full authority to halt construction once safe to do so if a resource has or may be impacted.
- **BIO-4:** All food scraps, wrappers, food containers, cans, bottles, and other trash from the project area should be deposited in trash containers with an adequate lid or cover to contain trash. All food waste should be placed in a securely-covered bin and removed from the site on a weekly basis to avoid attracting animals.

Cultural/ Tribal Cultural Resources and Geology/Soils

An Archeological Research Study was conducted for this site by Wolf Creek Archeological Services, (July 17 and 25, 2017). No significant artifacts or remains were discovered, and in the opinion of the archeologist, it is unlikely that any artifacts or remains will be uncovered during the course of site development. Regardless, the following Mitigation Measures are proposed in the event of an accidental discovery during site preparation activities. Therefore, with the imported mitigation measures below, all potential impacts would be reduced to less than Significant.

- **CUL-1:** Should any archaeological, paleontological, or cultural materials be discovered during site development, all activity shall be halted in the vicinity of the find(s), the overseeing Tribe shall be notified, and a qualified archaeologist retained to evaluate the find(s) and recommend mitigation procedures, if necessary, subject to the approval of the Community Development Director. Should any human remains be encountered, they shall be treated in accordance with Public Resources Code Section 5097.98 and with California Health and Safety Code section 7050.5.

- CUL-2: All employees shall be trained in recognizing potentially significant artifacts that may be discovered during ground disturbance. If any artifacts or remains are found, the Middletown Rancheria or other local overseeing Tribe shall immediately be notified; a licensed archaeologist shall be notified, and the Lake County Community Development Director shall be notified of such finds.

Noise

Short-term increases in ambient noise levels to uncomfortable levels could be expected during project grading and/or construction. Mitigation measures will decrease these noise levels to an acceptable level. A small amount of infrequent noise could be anticipated if a properly-permitted backup power generator is activated during any power outage or during generator testing, but these impacts would not be significant or long lasting. Maximum non-construction related sounds levels shall not exceed maximum levels specified in Zoning Ordinance Section 21-41.11 (Table 11.2) at the surrounding residences. Therefore, with the imported mitigation measures below, all potential impacts would be reduced to less than Significant.

- NOI-1: All construction activities including engine warm-up shall be limited Monday Through Friday, between the hours of 7:00am and 7:00pm to minimize noise impacts on nearby residents. Back-up beepers shall be adjusted to the lowest allowable levels. This mitigation does not apply to night work.
- NOI -2: Maximum non-construction related sounds levels shall not exceed levels of 55 dBA between the hours of 7:00AM to 7:00PM and 45 dBA between the hours of 10:00PM to 7:00AM within residential areas as specified within Zoning Ordinance Section 21-41.11 (Table 11.1) at the property lines.
- NOI-3: The operation of the Air Filtration System shall not exceed levels of 57 dBA between the hours of 7:00AM to 10:00PM and 50 dBA from 10:00PM to 7:00AM within residential areas as specified within Zoning Ordinance Section 21-41.11 (Table 11.2) measured at the property lines

V. MAJOR USE PERMIT FINDINGS FOR APPROVAL. Article 51, Section 51.4a

1. That the establishment, maintenance, or operation of the use applied for will not under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, or be detrimental to property and improvements in the neighborhood or the general welfare of the County.

The immediate area contains rural land with several homes that are located at least 2000 feet away from the nearest cultivation site. As previously discussed, the potential impacts resulting from this proposal are Air Quality, Biological Resources, Cultural / Tribal Cultural Resources, Geology / Soils and Noise. All potential impacts have been reduced to less than significant with incorporation of mitigation measures and adequately addressed within conditions of approval.

2. That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the type of use and level of development proposed.

The proposal is for six (6) A-Type 3 medium outdoor commercial cannabis licenses consisting of a 447,736 square foot of outdoor cultivation area, and an A-Type 13 Self Distribution license. The Lake County Cannabis Ordinance allows Type 1, 2, 3 and 4 cultivation operations on Rural Lands and Agriculture-zoned property when it meets the various size and locational criteria and standards. Article 27, Section 27.11 (at), requires a minimum 100 foot setback from all property lines of the subject property, and a minimum of 200 foot setback from any off-site residences – the nearest off-site residence is over 2000 feet away from the nearest cultivation area. Additionally, commercial cannabis cultivation is prohibited within a 1,000 feet of Community Growth Boundaries, licensed child care facilities, churches, or youth-oriented facilities. Each cultivation license requires a 20 acre minimum. The subject site is over 279 acres in size, large enough to allow the cultivation license that has been applied for.

3. That the streets, highways and pedestrian facilities are reasonably adequate to safely accommodate the specific proposed use.

The site is served by Morgan Valley Road, a paved County-maintained road with 10' wide travel lanes and shoulders that vary in width from two to four feet. There are no known vehicle capacity issues with Morgan Valley Road, and the road is adequate to serve the project and to accommodate vehicles, bicycles and pedestrians.

4. That there are adequate public or private services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.

This application was routed to all of the affected public and private service providers including CAL FIRE, South County Fire District, Public Works, Special Districts, Environmental Health, and all area Tribes. Relevant comments are attached as 'Attachment 4'. The applicant has two existing on-site wells that collectively produce 48 gallons per minute, and an on-site retention pond that can store up to seven acre-feet of water, all of which are available for irrigation purposes. The property management plan submitted projects annual water usage of 6,614,800 gallons of water. One acre foot of water is about 440,000 gallons of water.

5. That the project is in conformance with the applicable provisions and policies of this Code, the General Plan and any approved zoning or land use plan.

Since commercial cannabis cultivation is named as a permitted use with approval of a Use Permit in the RL and A zoning districts and meets all applicable zoning code regulations, this proposal is consistent with the governing ordinance for cannabis growing in the Lake County. In addition, the project will comply with all applicable regulations within the WW zoning overlay district. The General Plan

and the Lower Lake Area Plan do not have any specific provisions for commercial cannabis, but the General Plan does have provisions for economic development that the project is consistent with.

6. That no violation of Chapters 5, 17, 21, 23 or 26 of the Lake County Code currently exists on the property, unless the purpose of the permit is to correct the violation, or the permit relates to a portion of the property which is sufficiently separate and apart from the portion of the property in violation so as not to be affected by the violation from a public health, safety or general welfare basis.

The site does not have any violations of Chapters 5, 17, 21, 23 or 26 of the Lake County Code.

VI. ADDITIONAL CANNABIS USE PERMIT FINDINGS FOR APPROVAL Article 27, subsection (at):

- (1) The proposed use complies with all development standards described in Section 1.i

This report identifies the development standards, general requirements and restrictions outlined in the Lake County Zoning Ordinance that apply to cannabis cultivation in Lake County. The applicant is fully compliant with these requirements with mitigation measures and conditions of approval added. Prior to the applicant constructing any type of structure(s), the applicant shall obtain the necessary permits from the appropriate Federal, State and/or Local government agencies. Additionally, the Community Development Department would conduct Annual Compliance Monitoring Inspections during the cultivation season to ensure compliance with the approved Property Management Plan and Conditions of Approval.

- (2) The applicant is qualified to make the application described in Section 1.ii.(g)

The applicant and his employees have passed a 'live scan' background check, and are qualified to undertake a commercial cannabis cultivation activity subject to approval of this use permit.

- (3) The application complies with the qualifications for a permit described in Section 1.ii.(i)

This application complies with all qualifications for a permit described in Section 3.ii.(f). The applicant is proposing ten cannabis-related licenses; nine are for the outdoor cultivation sites, and one is for a 'self-distribution' license (Type 13). The subject site is 279 acres in size, large enough to support the cultivation license; the applicant also qualifies for the Type 13 'Self Distribution' license.

VII. RECOMMENDATION

Staff recommends the Planning Commission:

A. Adopt mitigated negative declaration (IS 19-21) for Use Permit (UP 19-10) with the following findings:

1. Potential environmental impacts related to air quality can be mitigated to less than significant levels with the inclusion of mitigation measures AQ-1, AQ-2, AQ-3, AQ-4, AQ-5, AQ-6, AQ-7 and AQ-8.
2. Potential environmental impacts related to biological resources can be mitigated to less than significant levels with the inclusion of mitigation measures BIO-1, BIO-2, BIO-3 and BIO-4.
3. Potential environmental impacts related to Cultural / Geological / Tribal resources can be mitigated to less than significant levels with the inclusion of mitigation measures CUL-1 and CUL-2.
4. Potential environmental impacts related to Noise can be mitigated to less than significant levels with the inclusion of mitigation measures NOI-1, NOI-2 and NOI-3.
5. As mitigated through specific conditions of approval, this project will result in less than significant environmental impacts.
6. This project is consistent with the Lake County General Plan, Lower Lake Area Plan and Zoning Ordinance.
7. The project is consistent with land uses in the vicinity.
8. Any changes to the project will require an amended Use Permit or a new Use Permit unless the Community Development Director determines that any changes have no potential increased environmental impacts.

B. Approve Use Permit UP 19-10 with the following findings:

1. That the establishment, maintenance, or operation of the use applied for will not under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, or be detrimental to property and improvements in the neighborhood or the general welfare of the County.
2. The site is adequate in size, shape, locations, and physical characteristics to accommodate the type of use and level of development proposed.
3. The streets, highways and pedestrian facilities can be mitigated to be reasonably adequate to safely accommodate the proposed use.
4. That there are adequate public or private services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.

5. That the project is in conformance with the applicable provisions and policies of this Code, the General Plan and any approved zoning or land use plan.
6. That no violation of Chapters 5, 17, 21, 23 or 26 of the Lake County Code currently exists on the property, unless the purpose of the permit is to correct the violation, or the permit relates to a portion of the property which is sufficiently separate and apart from the portion of the property in violation so as not to be affected by the violation from a public health, safety or general welfare basis.
7. The proposed use complies with all development standards described in Chapter 21, Article 27, Section 1.i.
8. The applicant is qualified to make the application described in Chapter 21, Article 27, Section 1.ii.(g).
9. The application complies with the qualifications for a permit described in Chapter 21, Article 27, Section 1.ii.(i).

Sample Motions:

Mitigated Negative Declaration

I move that the Planning Commission find that the **Initial Study (IS 19-21)** applied for by **Morgan Valley Ventures, LLC** on property located at **22800 and 22520 Morgan Valley Road, Lower Lake**, and further described as **APNs: 012-010-82, 012-069-59 and 012-069-60** will not have a significant effect on the environment and therefore a mitigated negative declaration shall be approved with the findings listed in the staff report dated **October 1, 2020**.

Major Use Permit (UP 19-10)

I move that the Planning Commission find that the **Use Permit (UP 19-10)** applied for by **Morgan Valley Ventures, LLC** on property located at **22800 and 22520 Morgan Valley Road, Lower Lake**, and further described as **APNs: 012-010-82, 012-069-59 and 012-069-60** does meet the requirements of Section 51.4 of the Lake County Zoning Ordinance and the Major Use Permit be granted subject to the conditions and with the findings listed in the staff report dated **October 1, 2020**.

NOTE: The applicant or any interested person is reminded that the Zoning Ordinance provides for a seven (7) calendar day appeal period. If there is a disagreement with the Planning Commission, an appeal to the Board of Supervisors may be filed. The appropriate forms and applicable fee must be submitted prior to 5:00 p.m. on or before the seventh calendar day following the Commission's final determination.

Reviewed by: _____